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6 HONORABLE JAMES L. ROBART  
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10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT SEATTLE  
13

14 SAM MALESKI of ABACUS  
15 GUARDIANSHIP, INC., as Personal  
16 Representative of the Estate of MELVIN F.  
17 DANIEL, and on behalf of the beneficiaries  
18 of the Estate,  
19

20 Plaintiff,  
21 v.

22 UNITED STATES OF AMERICA,  
23

Defendant.

No. 2:21-cv-00921-JLR

**STIPULATED MOTION AND ORDER  
TO CONTINUE DEADLINES**

**NOTE ON MOTION CALENDAR: 3/7/2023**

16 **STIPULATION**

17 For good cause shown and pursuant to Federal and Local Rule of Civil Procedure 16(b),  
18 Plaintiff Sam Maleski of Abacus Guardianship Service as Personal Representative of the Estate  
19 of Melvin F. Daniel and Defendant United States of America (“USA”), respectfully and jointly  
20 move the Court for entry of an order adjusting the pre-trial deadline for disclosing expert  
21 testimony by 45-days.

22 For good cause shown and with the Court’s consent, the Court may modify the deadlines  
23 in the scheduling order. Fed. R. Civ. P. 16(b)(4); *see also* LCR 16(b)(5). The “good cause”

standard primarily considers the diligence of the party seeking the amendment: the district court may modify the pretrial schedule if it cannot reasonably be met despite the diligence of the party seeking the extension. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (citing Fed. R. Civ. P. 16 advisory committee's notes (1983 amendment)). Although the existence or degree of prejudice to the opposing party might supply additional considerations for a motion to modify, the focus remains on the moving party's reasons for seeking modification. *See, e.g., Johnson*, 975 F.2d at 609 (internal citation omitted).

Counsel for the parties have been working cooperatively in discovery, have conferred, and agree that good cause exists to modify the case schedules, as set forth below:

1. On November 20, 2022, Melvin F. Daniel died.
2. On January 24, 2023, Sam Maleski was appointed as Personal Representative of the Estate of Melvin Daniel.
3. On February 10, 2023, the Plaintiffs filed a Second Amended Complaint substituting the Sam Maleski as Personal Representative of the Estate of Melvin Daniel. Dkt. 26.
4. The current deadline for disclosing expert testimony under FRCP 26(a)(2) is April 19, 2023. Dkt. 10.
5. Depositions of representatives of the United States have been scheduled for April 7, 2023.
6. The parties need time for experts to review these depositions in order to finalize their reports in this matter.
7. The parties have scheduled a mediation with WAMS Mediator Tom Merrick for April 14, 2023.
8. The parties hereby agree to continue the expert disclosure deadline to June 5, 2023.

1 DATED this 7th day of March, 2023.  
2 CONNELLY LAW OFFICES, PLLC  
3

4 By /s/ Micah R. LeBank  
5 Micah R. LeBank, WSBA No. 38047  
6 *Attorneys for Plaintiff*  
7 2301 North 30<sup>th</sup> Street  
8 Tacoma, WA 98403  
9 (253) 593 5100 Fax (253) 593 5100

10 DES MOINES ELDER LAW  
11

12 By /s/ Ermin Ceric  
13 Ermin Ceric, WSBA No. 52611  
14 612 South 227<sup>th</sup> Street  
15 Des Moines, WA 98198  
16 Phone: (206) 212-0220  
17 E-mail: [ermin@rm-law.com](mailto:ermin@rm-law.com)

18 NICHOLAS W. BROWN  
19 United States Attorney  
20

21 By s/Whitney Passmore  
22 WHITNEY PASSMORE, FL. No. 91922  
23

24 By s/Erin K. Hoar  
25 ERIN K. HOAR, CA NO. 311332  
26 Assistant United States Attorneys  
27 United States Attorney's Office  
28 700 Stewart Street, Suite 5220  
29 Seattle, WA 98101-1271  
30 Phone: 206-553-7970  
31 E-Mail: [whitney.passmore@usdoj.gov](mailto:whitney.passmore@usdoj.gov)  
32 E-Mail: [erin.hoar@usdoj.gov](mailto:erin.hoar@usdoj.gov)

## II. ORDER

Based on the foregoing Stipulation of the parties the expert disclosure deadline is hereby continued to June 5, 2023.

IT IS SO ORDERED.

DATED this 7th day of March, 2023.

John P. Blunt

HONORABLE JAMES L. ROBART  
United States District Judge

Presented by:

## CONNELLY LAW OFFICES, PLLC

By /s Micah R. LeBank

Micah R. LeBank, WSBA No. 38047  
Jackson R. Pahlke, WSBA No. 52812  
*Attorneys for Plaintiff*  
2301 North 30<sup>th</sup> Street  
Tacoma, WA 98403  
(253) 593 5100 Fax (253) 593 5100

## DES MOINES ELDER LAW

By /s *Ermin Ceric*  
Ermin Ceric, WSBA No. 526  
612 South 227<sup>th</sup> Street  
Des Moines, WA 98198  
Phone: (206) 212-0220  
E-mail: [ermin@rm-law.com](mailto:ermin@rm-law.com)